

# TITLE 4 STATE GOVERNMENT

## CHAPTER 21 HUMAN RIGHTS

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## TITLE 4 STATE GOVERNMENT

### CHAPTER 21 HUMAN RIGHTS

#### PART 1- GENERAL PROVISIONS

##### **4-21-101. Purpose and Intent.—**

(a) It is the purpose and intent of the general assembly by this chapter to:

(1) Provide for execution within Tennessee of the policies embodied in the federal Civil Rights Acts of 1964, 1968 and 1972, the Pregnancy Amendment of 1978, and the Age Discrimination in Employment Act of 1967, as amended;

(2) Assure that Tennessee has appropriate legislation prohibiting discrimination in employment, public accommodations and housing sufficient to justify the deferral of cases by the federal equal employment opportunity commission, the department of housing and urban development, the secretary of labor and the department of justice under those statutes;

(3) Safeguard all individuals within the state from discrimination because of race, creed, color, religion, sex, age or national origin in connection with employment, public accommodations, and because of race, color, creed, religion, sex or national origin in connection with housing;

(4) Protect their interest in personal dignity and freedom from humiliation;

(5) Make available to the state their full productive capacity in employment;

(6) Secure the state against domestic strife and unrest which would menace its democratic institutions;

(7) Preserve the public safety, health and general welfare; and

(8) Further the interest, rights, opportunities and privileges of individuals within the state.

(b) The prohibitions in this chapter against discrimination because of age in connection with employment and public accommodations shall be limited to individuals who are at least forty (40) years of age.

[Acts 1978, ch. 748, § 2; T.C.A., § 4-2101; Acts 1980, ch. 732, §§ 1-4; 1984, ch. 1007, § 1; 1986, ch. 807, § 1; 1988, ch. 714, § 6.]

##### **4-21-102. Chapter definitions.—**

As used in this chapter, unless the context otherwise requires:

(1) "Commission" means the Tennessee human rights commission;

(2) "Commissioner" means a member of the commission;

(3) "Discriminatory practices" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, creed, color, religion, sex, age or national origin;

(4) "Employer" includes the state, or any political or civil subdivision thereof, and persons employing eight (8) or more persons within the state, or any person acting as an agent of an employer, directly or indirectly;

(5) "Employment agency" includes any person or agency, public or private, regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer;

(6) "Familial status" means one (1) or more individuals, who have not attained eighteen (18) years of age, being domiciled with:

(A) A parent or another person having legal custody of such individual or individuals; or

(B) The designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections against discrimination on the basis of familial status shall apply to any person who is pregnant or who is in the process of securing legal custody of any person who has not attained eighteen (18) years of age;

(7) "Family" includes a single individual;

(8) "Financial institution" means a bank, banking organization, mortgage company, insurance company or other lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, maintenance or improvements of real property, or an individual employed by or acting on behalf of any of these;

(9) (A) "Handicap" means, with respect to a person:

(i) A physical or mental impairment which substantially limits one (1) or more of such person's major life activities;

(ii) A record of having such an impairment; or

(iii) Being regarded as having such an impairment;

(B) "Handicap" does not include current, illegal use of, or addiction to, a controlled substance;

(10) "Hearing examiner" is one (1) or more persons or commissioners, designated by the commission to conduct a hearing. The commission has the sole power to determine qualifications of the hearing examiner;

(11) "Housing accommodation" includes improved and unimproved property and means a building, structure, lot or part thereof which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home or residence of one (1) or more individuals;

(12) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment or any agent acting for organizations;

(13) "National origin" includes the national origin of an ancestor;

(14) "Person" includes one (1) or more individuals, governments, governmental agencies, public authorities, labor organizations, corporations, legal representatives, partnerships, associations, trustees, trustees in bankruptcy, receivers, mutual companies, joint stock companies, trusts, unincorporated organizations or other organized groups of persons;

(15) "Places of public accommodation, resort or amusement" includes any place, store or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public, or which is supported directly or indirectly by government funds, except that:

(A) A bona fide private club is not a place of public accommodation, resort or amusement if its policies are determined solely by its members; and

(B) Its facilities or services are available only to its members and their bona fide guests;

(16) "Real estate broker" or "real estate salesperson" means an individual, whether licensed or not, who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others

such activity; or who advertises or holds such individual out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrance upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby such individual undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these;

(17) "Real estate operator" means any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers or other legal or commercial entities, or the county or any of its agencies, that is engaged in the business of selling, purchasing, exchanging, renting or leasing real estate, or the improvements thereon, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental or lease of real estate; or an individual employed by or acting on behalf of any of these;

(18) "Real estate transaction" includes the sale, exchange, rental or lease of real property; and

(19) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.

[Acts 1978, ch. 748, § 3; T.C.A., § 4-2102; Acts 1980, ch. 732, § 5; 1984, ch. 1007, § 2; 1990, ch. 937, § 1; 1992, ch. 1027, § 1.]

#### **4-21-103 – 4-21-133. [ Transferred.]**

#### **4-21-134. [Obsolete.]**

### **PART 2- HUMAN RIGHTS COMMISSION**

#### **4-21-201. Commission Created – Members. –**

(a) There is hereby created the Tennessee human rights commission.

(b) The commission shall consist of fifteen (15) members to be appointed by the governor, five (5) of whom shall reside in each grand division of the state.

(c) All of the fifteen (15) members of the commission shall be appointed for a term of six (6) years.

(d) They shall elect one (1) member as chair.

(e) The members shall be appointed on a nonpartisan basis and shall be broadly representative of employees, proprietors, trade unions, religious groups, human rights groups and the general public.

(f) In the event of the death or resignation of a member, such member's successor shall be appointed to serve the unexpired term.

(g) The members shall be eligible for reappointment.

(h) The members are entitled to reimbursement for expenses incurred in the performance of their duties and to reasonable fees for each day of service as hearing examiners.

(i) A commissioner who is absent from more than three (3) regularly scheduled meetings in the course of the commission's fiscal year may be removed from the commission by the governor.

[Acts 1978, ch. 748, §§ 4, 5; T.C.A., § 4-2103; Acts 1983, ch. 64, § 1; T.C.A., § 4-21-103; 2005, ch. 229, §1.]

#### **4-21-202. Powers and duties. –**

In the enforcement of this chapter, the commission has the power and duty to:

- (1) Maintain offices in Shelby County, Davidson County, Knox County and Hamilton County and such other offices within the state as may be deemed necessary;
- (2) Meet and exercise its powers within the state;
- (3) Annually appoint an executive director, fix the director's compensation with the approval of the governor, and delegate any of its functions and duties to the director in the interest of efficient management of the appropriations and resources of the agency;
- (4) Promote the creation of local commissions on human rights, to cooperate with state, local and other agencies, both public and private, and individuals, and to obtain upon request and utilize the services of all governmental departments and agencies;
- (5) Enter into cooperative working agreements with local commissions which have enforceable ordinances, orders, or resolutions and professional staff;
- (6) Cooperate with the federal equal employment opportunity commission created under § 705 of the Civil Rights Act of 1964, compiled in 42 U.S.C. § 2000e-4, and with the department of housing and urban development in enforcing the Fair Housing Act of 1968, compiled in 42 U.S.C. § 3601 et seq., in order to achieve the purposes of those acts, and with other federal and local agencies in order to achieve the purposes of this chapter;
- (7) Accept and disburse gifts and bequests, grants or other payments, public or private, to help finance its activities;
- (8) Accept reimbursement pursuant to § 709(b) of the Civil Rights Act of 1964, compiled in 42 U.S.C. § 2000e-8, and pursuant to § 816 of the Fair Housing Act of 1968, compiled in 42 U.S.C. § 3616, for services rendered to assist the federal equal employment opportunity commission and the department of housing and urban development;
- (9) Receive, initiate, investigate, seek to conciliate, hold hearings on and pass upon complaints alleging violations of this chapter;
- (10) Require answers to interrogatories, compel the attendance of witnesses, examine witnesses under oath or affirmation in person by deposition, and require the production of documents relevant to the complaint. The commission may make rules authorizing or designating any member or individual to exercise these powers in the performance of official duties;
- (11) Furnish technical assistance requested by persons subject to this chapter to further their compliance with this chapter or an order issued thereunder;
- (12) Make studies appropriate to effectuate the purposes and policies of this chapter and make the results thereof available to the public;
- (13) Render, in accordance with the rules, regulations, policies and procedures of the state publications committee, a written report. The report may contain recommendations of the commission for legislative or other action to effectuate the purposes and policies of this chapter;
- (14) Adopt, promulgate, amend and rescind rules and regulations to effectuate the purposes and provisions of this chapter, including regulations requiring the posting of notices prepared or approved by the commission;
- (15) Cooperate with community, professional, civic and religious organizations, federal agencies and agencies from other states in the development of public information programs, leadership and activities in the interest of equal opportunity and treatment of all individuals;
- (16) (A) Create local or statewide advisory agencies that in its judgment will aid in effectuating the purposes of this chapter. The commission may empower these agencies to:

- (i) Study and report on problems of discrimination because of race, creed, color, religion, sex, age or national origin;
- (ii) Foster through community effort or otherwise, goodwill among the groups and elements of the population of the state; and
- (iii) Make recommendations to the commission for the development of policies and practices that will aid in carrying out the purposes of this chapter.

(B) Members of such advisory agencies shall serve without pay, but shall be reimbursed for expenses incurred in such services. The commission may make provision for technical and clerical assistance to the advisory agencies; and

(17) Conduct tests of housing accommodations and availability through the use of staff, both full time and part time, and of volunteers to ascertain the availability of housing, both in sales and also in rentals of real property.

[Acts 1978, ch. 748, § 6; 1979, ch. 422, § 25; T.C.A., § 4-2104; Acts 1980, ch. 732, § 5; 1984, ch. 1007, § 3; T.C.A., § 4-21-104; Acts 1989, ch. 6, § 3; 1990, ch. 1024, § 9; 1992, ch. 1027, § 2; 1996, ch. 1034, §§ 2, 3.]

### **PART 3- VIOLATIONS - PROCEDURES**

#### **4-21-301. Discriminatory practices. –**

It is a discriminatory practice for a person or for two (2) or more persons to:

(1) Retaliate or discriminate in any manner against a person because such person has opposed a practice declared discriminatory by this chapter or because such person has made a charge, filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing under this chapter;

(2) Aid, abet, incite, compel or command a person to engage in any of the acts or practices declared discriminatory by this chapter;

(3) Willfully interfere with the performance of a duty or the exercise of a power by the commission or one (1) of its members or representatives;

(4) Willfully obstruct or prevent a person from complying with the provisions of this chapter or an order issued thereunder; or

(5) Violate the terms of a conciliation agreement made pursuant to this chapter. [Acts 1978, ch. 748, § 16; T.C.A., §§ 4-2114, 4-21-114.]

#### **4-21-302. Complaints – Consideration by commission. –**

(a) A person claiming to be aggrieved by a discriminatory practice, or a member of the commission may file with the commission a written sworn complaint stating that a discriminatory practice has been committed, setting forth the facts sufficient to enable the commission to identify the persons charged (hereinafter the respondent). Within ten (10) days after receipt of the complaint, the commission shall serve on the complainant a notice acknowledging the filing of the complaint and informing the complainant of the respondent's time limits and choice of forums under this chapter.

(b) The commission staff, or a person designated pursuant to its rules, shall promptly investigate the matter to determine whether the discriminatory practice exists and shall within ten (10) days furnish the respondent with a copy of the complaint and a notice advising the respondent of the respondent's procedural rights and obligations under this chapter.

(c) The complaint must be filed within one hundred eighty (180) days after the commission of the alleged discriminatory practice.

(d) (1) The commission staff, or a person designated pursuant to its rules, shall commence an investigation of the complaint within thirty (30) days after the filing of the

complaint. The commission staff, or designee, shall promptly investigate the matter to determine whether the discriminatory practice exists.

(2) If it is determined that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the commission shall furnish a copy of the order to the complainant, the respondent, and such public officers and persons as the commission deems proper.

(e) (1) The complainant, within thirty (30) days after receiving a copy of the order dismissing the complaint, may file with the commission an application for reconsideration of the order.

(2) Upon such application, the commission or an individual designated pursuant to its rules shall make a new determination within thirty (30) days whether there is reasonable cause to believe that the respondent has engaged in a discriminatory practice.

(3) If it is determined that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the commission shall issue an order dismissing the complaint after reconsideration, and furnishing a copy of the order to the complainant, the respondent, and such public officers and persons as the commission deems proper.

[Acts 1978, ch. 748, § 17; T.C.A., §§ 4-2115, 4-21-115; Acts 1992, ch. 1027, §§ 3, 4.]

#### **4-21-303. Conciliation agreements – Temporary relief. –**

(a) If the staff determines after investigation, or if the commission or its delegate determines after the review provided for in § 4-21-302 that there is reasonable cause to believe that the respondent has engaged in a discriminatory practice, the commission staff shall endeavor to eliminate the alleged discriminatory practices by conference, conciliation and persuasion.

(b) The terms of a conciliation agreement reached with a respondent shall require the respondent to refrain from discriminatory practices in the future, and shall make such further provisions as may be agreed upon between the commission or its assigned staff and the respondent.

(c) If a conciliation agreement is entered into, the commission shall issue and serve on the complainant an order stating its terms. A copy of the order shall be delivered to the respondent, and such public officers and persons as the commission deems proper.

(d) Except for the terms of the conciliation agreement, neither the commission nor any officer or employee thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate discriminatory practice by conference, conciliation or persuasion, whether or not there is a determination of reasonable cause or a conciliation agreement. The conciliation agreement itself shall be made public unless the complainant and the respondent otherwise agree, and the commission also determines that disclosure is not required to further the purposes of this chapter.

(e) At the expiration of one (1) year from the date of a conciliation agreement, and at other times in its reasonable discretion, the commission staff may investigate whether the terms of the agreement have been and are being complied with by the respondent.

(f) Upon finding that the terms of the agreement are not being complied with by the respondent, the commission shall take such action as it deems appropriate to assure compliance.

(g) At any time after a complaint is filed, the commission may file an action in the chancery court or circuit court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or has the respondent's principal place of business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under the chapter, including an order or decree restraining



such respondent from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court has the power to grant such temporary relief or restraining order as it deems just and proper.

[Acts 1978, ch 748, § 18; T.C.A., §§ 4-2116, 4-21-116; Acts 1992, ch 1027, § 5; 1996, ch 777, § 1.]

#### **4-21-304. Hearings. –**

(a)(1) In complaints involving discrimination in employment and public accommodations, within ninety (90) days after an administrative determination of reasonable cause to believe that discrimination took place, unless the commission has issued an order stating the terms of a conciliation agreement, or in those cases in which the terms of a conciliation agreement have been kept confidential, has issued an order stating that the case has been satisfactorily conciliated, the commission shall serve on the respondent by mail or in person a written notice, together with a copy of the complaint as it may have been amended, or a copy of the letter of determination, requiring the respondent to answer the allegation of the complaint at a hearing before a hearing examiner or hearing examiners, or another individual pursuant to its rules, at a time and place specified by the hearing examiner or examiners after conference with the parties or their attorneys.

(2) A copy of the notice shall be furnished to the complainant, and such public officers and persons as the commission deems proper.

(3) In complaints involving housing discrimination only, if the commission has determined that there is reasonable cause to believe that the respondent has engaged in a discriminatory housing practice, and if the complaint has not been resolved through a conciliation agreement, and if neither party has made an election for a civil action pursuant to § 4-21-312 within ninety (90) days after the complaint is filed, the commission shall commence a hearing in accordance with the provisions of this subsection (a).

(4) All hearings conducted under this section shall be conducted in accordance with the Uniform Administrative Procedures Act, compiled in chapter 5, part 3 of this title.

(b) A member of the commission who filed the complaint or endeavored to eliminate the alleged discriminatory practice by conference, conciliation or persuasion shall not participate in the hearing or in the subsequent deliberation of the commission.

(c) The respondent may file an answer with the commission by registered or certified mail in accordance with the rules of the commission before the hearing date. The respondent may amend an answer at any time prior to the issuance of an order based on the complaint, but no order shall be issued unless the respondent has had an opportunity of a hearing on the complaint or amendment on which the order is based.

(d) A respondent, who has filed an answer or whose default in answering has been set aside for good cause shown, may appear at the hearing with or without representation, may examine and cross-examine witnesses and the complainant, and may offer evidence.

(e) The complainant and the complainant's private attorney, and, in the discretion of the commission, any person, may intervene, examine, and cross-examine witnesses, and present evidence.

(f) If the respondent fails to answer the complaint, the commission may enter the respondent's default. Unless the default is set aside for good cause shown, the hearing may proceed on the evidence in support of the complaint.

(g) Efforts at conference, conciliation and persuasion shall not be received in evidence.

(h) Testimony taken at the hearing shall be under oath and transcribed. If the testimony is not taken before the commission, the record shall be transmitted to the commission.

(i) In a proceeding under this chapter, the production of a written, printed or visual communication, advertisement or other form of publication, or a written inquiry, or record,

or other document purporting to have been made by a person shall be prima facie evidence that it was authorized by the person.

[Acts 1978, ch. 748, § 19; 1979, ch. 422, § 26; T.C.A., §§ 4-2117, 4-21-117; Acts 1992, ch. 1027, § 6.]

#### **4-21-305. Findings and orders. –**

(a) If the commission determines that the respondent has not engaged in a discriminatory practice, the commission shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the respondent, and such public officers and persons as the commission deems proper.

(b) If the commission determines that the respondent has engaged in a discriminatory practice, the commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the discriminatory practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant, and to such public officers and persons as the commission deems proper.

[Acts 1978, ch. 748, § 20; T.C.A., §§ 4-2118, 4-21-118.]

#### **4-21-306. Remedies. –**

(a) Affirmative action ordered under this section may include, but is not limited to:

(1) Hiring, reinstatement or upgrading of employees with or without back pay. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable;

(2) Admission or restoration of individuals to union membership, admission to, or participation in, a guidance program, apprenticeship, training program, on-the-job training program, or other occupational training or retraining program, and the utilization of objective criteria in the admission of individuals to such programs;

(3) Admission of individuals to a place of public accommodation, resort or amusement;

(4) The extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges and services of the respondent;

(5) Reporting as to the manner of compliance;

(6) Posting notices in conspicuous places in the respondent's place of business in the form prescribed by the commission and inclusion of such notices in advertising material;

(7) Payment to the complainant of damages for an injury, including humiliation and embarrassment, caused by the discriminatory practice, and cost, including a reasonable attorney's fee;

(8) Such other remedies as shall be necessary and proper to eliminate all the discrimination identified by the evidence submitted at the hearing or in the record; and

(9)(A) In cases involving discriminatory housing practices only, payment by the respondent of a civil penalty:

(i) In an amount not exceeding ten thousand dollars (\$10,000) if the respondent has not been adjudged to have committed any prior unlawful discriminatory housing practices;

(ii) In an amount not exceeding twenty-five thousand dollars (\$25,000) if the respondent has been adjudged to have committed one (1) other unlawful discriminatory housing practice during the five-year period ending on the date of the filing of the complaint; or

(iii) In an amount not exceeding fifty thousand dollars (\$50,000) if the respondent has been adjudged to have committed two (2) or more unlawful discriminatory housing practices during the seven-year period ending on the date of the filing of the complaint.

(B) If the acts constituting the discriminatory housing practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting an unlawful discriminatory housing practice, then the civil penalties set forth in subdivisions (a)(9)(A)(ii) and (iii) may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

(b) The commission may publish, or cause to be published, the names of persons who have been determined to have engaged in a discriminatory practice.

[Acts 1978, ch. 748, §§ 21; T.C.A., §§ 4-2119, 4-21-119; Acts 1992, ch. 1027, § 7.]

#### **4-21-307. Judicial review. –**

(a) A complainant, respondent or intervenor aggrieved by an order of the commission, including an order dismissing a complaint or stating the terms of a conciliation agreement, may obtain judicial review, and the commission may obtain an order of the court for enforcement of its order, in a proceeding brought in the chancery court or circuit court in which the alleged discriminatory practice, which is the subject of the order, occurred or in which a respondent resides or transacts business.

(b)(1) The proceeding for review or enforcement is initiated by filing a petition in court.

(2) Copies of the appeal shall be served upon all parties of record.

(3) Within thirty (30) days after the service of the petition for appeal upon the commission or its filing by the commission, or within such further time as the court may allow, the commission shall transmit to the court the original or a certified copy of the entire record upon which the order is based, including a transcript of testimony, which need not be printed.

(4) By stipulation of all parties to the review proceeding, the record may be shortened.

(5) The findings of fact of the commission shall be conclusive unless clearly erroneous in view of the probative and substantial evidence on the whole record.

(6) The court has the power to grant such temporary relief or restraining order as it deems just and to enter an order enforcing, modifying and enforcing as modified, or setting aside in whole or in part the order of the commission, or remanding the case to the commission for further proceedings.

(7) All such proceedings shall be heard and determined by the chancery court or circuit court and court of appeals as expeditiously as possible and with lawful precedence over other matters.

(c) If the commission has failed to schedule a hearing in accordance with § 4-21-304 or has failed to issue an order within one hundred eighty (180) days after the complaint is filed, the complainant, respondent or an intervenor may petition the chancery court or circuit court in a county in which the petitioner resides or has the petitioner's principal place of business for an order directing the commission to take such action. The court shall follow the procedure set forth in subsection (b) so far as applicable.

(d)(1) The court shall not consider any matter not considered by, nor any objection not raised before, the hearing examiner or examiners unless the failure of a party to present such matter to or raise such objection before the hearing examiner or examiners are excused because of good cause shown.

(2) A party may move the court to remand the case to the commission in the interest of justice for the purpose of adducing additional specified material evidence and seeking findings thereon; provided, that the party shows good cause for the failure to adduce such evidence before the commission.

(e)(1) The jurisdiction of the chancery court or circuit court shall be exclusive, and its final judgment or decree shall be subject to review by the court of appeals as provided by the Rules of Civil Procedure.

(2) The commission's copy of the testimony shall be available to all parties for examination without cost during business hours at the commission's office in Nashville.

(f)(1) A proceeding under this section must be initiated within thirty (30) days after a copy of the order of the commission is petitioned or the petition is filed under § 4-21-304.

(2) If no proceeding is so initiated, the commission may obtain a decree of the court of enforcement of its order upon showing that a copy of the petition for enforcement was served on the respondent and the respondent is subject to the jurisdiction of the court.

[Acts 1978, ch. 748, § 22; T.C.A., §§ 4-2120, 4-21-120; Acts 1996, ch. 777, §§ 2-5.]

#### **4-21-308. Access to records. –**

(a) In connection with an investigation of a complaint filed under this chapter, the commission or its designated representative at any reasonable time may request access to premises, records and documents relevant to the complaint and the right to examine a photograph and copy evidence.

(b) Every person subject to this chapter shall:

(1) Make and keep records relevant to the determination of whether discriminatory practices have been or are being committed;

(2) Preserve such records for such periods; and

(3) Make such reports therefrom, as the commission shall prescribe by regulation or order, as reasonably necessary, or appropriate for the enforcement of this chapter or the regulation or orders thereunder.

(c) So as to avoid undue burdens on persons subject to this chapter, records and reports required by the commission under this section shall conform as near as may be to similar records and reports required by federal law and the laws of other states and to customary recordkeeping practice.

(d) If a person fails to permit access, examination, photographing or copying or fails to make, keep or preserve records or make reports in accordance with this section, the chancery court in Davidson county or circuit court for the county in which such person is found, resides, or has such person's principal place of business, upon application of the commission, may issue an order requiring compliance.

(e) The commission, by regulation, shall require each person subject to this chapter who controls an apprenticeship or other training program to keep all records reasonably necessary to carry out the purpose of the chapter, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which applications were received, and shall furnish to the commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training programs.

(f) A person who believes that the application to it of a regulation or order issued under this section would result in undue hardship may apply to the commission for an exemption from the application of the regulation or order. If the commission finds the application of the regulation or order to the person in question would impose an undue hardship, the commission may grant appropriate relief.

[Acts 1978, ch. 748, § 23; T.C.A., §§ 4-2121, 4-21-121; Acts 1996, ch. 777, § 6; 2005, ch. 111 §1.]

#### **4-21-309. Subpoenas. –**

(a) (1) Upon written application to the commission, a party to a proceeding is entitled as of right to the issuance of subpoenas for deposition or hearing in the name of the commission by an individual designated pursuant to its rules requiring attendance and the giving of testimony by witnesses and the production of documents.

(2) A subpoena so issued shall show on its face the name and address of the party at whose request the subpoena is directed.

(3) On petition of the person to whom the subpoena is directed and notice to the requesting party, the commission or an individual designated pursuant to its rules may vacate or modify the subpoena.

(4) Depositions of witnesses may be taken as prescribed by the Tennessee Rules of Civil Procedure.

(5) Witnesses whose depositions are taken, or who are summoned before the commission or its agents, will be entitled to the same witness and mileage fees as are paid to the witnesses subpoenaed in chancery courts of the state.

(b) If a person fails to comply with a subpoena issued by the commission, the chancery court or circuit court of the county in which the person is found, resides, or has the person's principal place of business, upon application of the commission or the party requesting the subpoena, may issue an order requiring compliance. In any proceeding brought under this section, the court may modify or set aside the subpoena.

[Acts 1978, ch. 748, § 24; T.C.A., §§ 4-2122, 4-21-122; Acts 1996, ch. 777, § 7.]

#### **4-21-310. Resistance to, obstruction, etc., of commission. –**

Any person who willfully resists, prevents, impedes or interferes with the performance of a duty or the exercise of a power by the commission or one (1) of its members or representatives commits a Class C misdemeanor. [Acts 1978, ch. 748, § 25; T.C.A., §§ 4-2123, 4-21-123; Acts 1989, ch. 591, § 113.]

#### **4-21-311. Additional remedies preserved. –**

(a) Any person injured by any act in violation of the provisions of this chapter shall have a civil cause of action in chancery court or circuit court.

(b) In such an action, the court may issue any permanent or temporary injunction, temporary restraining order, or any other order and may award to the plaintiff actual damages sustained by such plaintiff, together with the costs of the lawsuit, including a reasonable fee for the plaintiff's attorney of record, all of which shall be in addition to any other remedies contained in this chapter.

(c) In cases involving discriminatory housing practices, the court may award punitive damages to the plaintiff, in addition to the other relief specified in this section and this chapter. In addition to the remedies set forth in this section, all remedies described in § 4-21-306, except the civil penalty described in § 4-21-306(a)(9), shall be available in any lawsuit filed pursuant to this section.

(d) A civil cause of action under this section shall be filed in chancery court or circuit court within one (1) year after the alleged discriminatory practice ceases, and any such action shall supersede any complaint or hearing before the commission concerning the same alleged violations, and any such administrative action shall be closed upon such filing.

[Acts 1978, ch. 748, § 26; T.C.A., §§ 4-2124, 4-21-124; Acts 1989, ch. 374, § 1; 1992, ch. 1027, § 8; 1996, ch. 777, §§ 8, 9.]

#### **4-21-312. Election of civil action. –**

(a) The provisions of this section apply only in cases involving discriminatory housing practices.

(b) Within ninety (90) days after a complaint is filed, if the commission has determined that there is reasonable cause to believe that the respondent has engaged in a discriminatory housing practice and if the complaint has not been resolved through a conciliation agreement, the commission shall notify the complainant and the respondent in writing that they may elect to have the claims and issues of the complaint decided in a civil action commenced and maintained by the commission. Either the complainant or the respondent may make such an election by notifying the commission of the complainant's or respondent's desire to do so. A party shall make an election for a civil action no later than twenty (20) days after receiving notice of permission to do so.

(c) If an election is made under this section, no later than sixty (60) days after the election is made, the commission shall commence a civil action in the chancery court or circuit court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or has the respondent's principal place of business.

(d) In a civil action brought under this section, the court may grant relief as it deems appropriate, including any permanent or temporary injunction, temporary restraining order, or other equitable relief, and may award to any person compensatory and punitive damages. Parties to a civil action brought pursuant to this section shall have the right to a jury trial.

[Acts 1992, ch. 1027, § 9; 1996, ch. 777, § 10.]

### **Part 4– EMPLOYMENT-RELATED DISCRIMINATION**

#### **4-21-401. Employer practices. –**

(a) It is a discriminatory practice for an employer to:

(1) Fail or refuse to hire or discharge any person or otherwise to discriminate against an individual with respect to compensation, terms, conditions or privileges of employment because of such individual's race, creed, color, religion, sex, age or national origin; or

(2) Limit, segregate or classify an employee or applicants for employment in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect the status of an employee, because of race, creed, color, religion, sex, age or national origin.

(b) This section does not apply to the employment of an individual by such individual's parent, spouse or child or to employment in the domestic service of the employer.

[Acts 1978, ch. 748, § 7; T.C.A., § 4-2105; Acts 1980, ch. 732, § 6; T.C.A., § 4-21-105.]

#### **4-21-402. Labor organization practices. –**

It is a discriminatory practice for a labor organization to:

(1) Exclude or expel from membership, or otherwise to discriminate against a member or applicant for membership because of race, creed, color, religion, sex, age or national origin;

(2) Limit, segregate, or to classify membership or application for membership or to classify or fail or refuse to refer for employment on the basis of race, creed, color, religion, sex, age or national origin, in a manner which would deprive or tend to deprive any person of employment opportunities, or which would limit employment opportunities or to otherwise adversely affect the status of an employee or of an employee or of an applicant for employment because of race, creed, color, religion, sex, age or national origin; or

(3) Cause or attempt to cause an employer to violate this chapter.

[Acts 1978, ch. 748, § 8; modified; T.C.A., § 4-2106; Acts 1980, ch. 732, § 6; T.C.A., § 4-21-106.]

**4-21-403. Employment Agency Practices. –**

It is a discriminatory practice for an employment agency to classify or refer for employment, or to fail or refuse to refer for employment, or otherwise to discriminate against any person because of race, creed, color, religion, sex, age or national origin.

[Acts 1978, ch. 748, § 9; T.C.A., § 4-2107; Acts 1980, ch. 732, § 6; T.C.A., § 4-21-107.]

**4-21-404. Training program practices. –**

It is a discriminatory practice for:

(1) An employer, labor organization, or joint labor-management committee controlling apprenticeship, or on-the-job, or other training or retraining programs, to discriminate against an individual because of race, creed, color, religion, sex, or national origin, in admission to, or employment in, a program established to provide apprenticeship or other training;

(2) An employer, labor organization, employment agency or joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, to print, publish or circulate or cause to be printed, published or circulated any statement, advertisement or publication relating to employment by such an employer, or membership in such organization or any classification or referral for employment by such labor organization, or relating to any classification or referral for employment by such an employment agency or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee indicating any preference, limitation, specification or discrimination based on race, creed, color, religion, sex or national origin; except that such advertisement or publication may indicate preference, limitation or specification based on religion or sex or when religion or sex is a bona fide occupational qualification for employment.

[Acts 1978, ch. 748, § 10; T.C.A., § 4-2108; Acts 1980, ch. 732, §§ 7, 8; 1983, ch. 44, § 1; T.C.A., § 4-21-108.]

**4-21-405. Religious Groups Exempted. –**

This chapter shall not apply to religious corporations, associations, educational institutions, or societies, with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by the corporation, association, educational institution, or society, of its religious activities.

[Acts 1978, ch. 748, § 11; T.C.A., §§ 4-2109, 4-21-109.]

**4-21-406. Religion or Sex as Bona Fide Occupational Qualifications – Affirmative Action Plans. –**

(a) It is not a discriminatory practice for:

(1) An employer to employ employees;

(2) An employment agency to classify, or refer for employment any individual;

(3) A labor organization to classify its members or to classify or refer for employment any individual; or

(4) An employer, labor organization, or joint training or retraining programs to admit or employ any individual in any such program; on the basis of religion or sex in those certain instances where religion or sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

(b) It is not a discriminatory practice for a person subject to this chapter to adopt and carry out a plan to fill vacancies or hire new employees so as to eliminate or reduce imbalance with respect to race, creed, color, religion, sex, age or national origin, if the plan has been filed with the commission and the commission has not disapproved the plan.

[Acts 1978, ch. 748, § 12; T.C.A., § 4-2110; Acts 1980, ch. 732, § 9; T.C.A., § 4-21-110.]

#### **4-21-407. Age discrimination. –**

(a) It is not unlawful for an employer, employment agency or labor organization to:

(1) Discriminate in employment on the basis of age where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age; or

(2) Observe the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of this chapter, except that no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual specified by § 4-21-101(b) because of the age of such individual, unless otherwise provided by law.

(b) The prohibitions imposed by this chapter relating to age discrimination in employment shall be limited to individuals who are at least forty (40) years of age.

(c) Notwithstanding any other provisions of this chapter relating to age discrimination in employment, it is not unlawful for an employer, employment agency or labor organization subject to the other provisions of this chapter to observe the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of this chapter, except that no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual covered by this chapter because of the age of such individual.

(d) Nothing in this chapter relating to age discrimination shall be construed to prohibit compulsory retirement of any employee who has attained sixty-five (65) years of age and who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least forty-four thousand dollars (\$44,000).

(e) (1) It is not unlawful for an employer subject to the provisions of this chapter to fail or refuse to hire or to discharge any individual because of such individual's age if such action is taken:

(A) With respect to the employment of an individual as a firefighter or a law enforcement officer and the individual has attained the age of hiring or retirement in effect under applicable state or local law on March 3, 1983; and

(B) Pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the purposes of this chapter.

(2) For the purposes of this part the following definitions shall apply:

(A) "Firefighter" means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position; and;



(B) "Law enforcement officer" means an employee, the duties of whose position are primarily the investigation, apprehension or detention of individuals suspected or convicted of offenses against state criminal laws, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purposes of this subdivision, "detention" includes the duties of employees assigned to guard individuals incarcerated in any penal institution.

(3) The provisions of this subsection shall not apply with respect to any cause of action arising under the Age Discrimination in Employment Act of 1967 as in effect before January 1, 1987.

[Acts 1980, ch. 732 §§10, 11; T.C.A. §§4-21-125, 4-21-126; Acts 1988, ch. 714, §§1-5; 1992 ch. 1027, §18]

#### **4-21-408. Leave for adoption, pregnancy, childbirth and nursing an infant. –**

(a) Employees who have been employed by the same employer for at least twelve (12) consecutive months as full-time employees, as determined by the employer at the job site or location, may be absent from such employment for a period not to exceed four (4) months for adoption, pregnancy, childbirth and nursing the infant, where applicable, referred to as "leave" in this section. With regard to adoption, the four (4) month period shall begin at the time an employee receives custody of the child.

(b) (1) Employees who give at least three (3) months' advance notice to their employer of their anticipated date of departure for such leave, their length of leave, and their intention to return to full-time employment after leave, shall be restored to their previous or similar positions with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of their leave.

(2) Employees who are prevented from giving three (3) months' advance notice because of a medical emergency which necessitates that leave begin earlier than originally anticipated shall not forfeit their rights and benefits under this section solely because of their failure to give three (3) months' advance notice.

(3) Employees who are prevented from giving three (3) months' advance notice because the notice of adoption was received less than three (3) months in advance shall not forfeit their rights and benefits under this section solely because of their failure to give three (3) month's advance notice.

(c) (1) Leave may be with or without pay at the discretion of the employer. Such leave shall not affect the employees' right to receive vacation time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which employees were eligible at the date of their leave, and any other benefits or rights of their employment incident to the employees' employment position; provided, that the employer need not provide for the cost of any benefits, plans or programs during the period of such leave unless such employer so provides for all employees on leaves of absence.

(2) If an employee's job position is so unique that the employer cannot, after reasonable efforts, fill that position temporarily, then the employer shall not be liable under this section for failure to reinstate the employee at the end of such leave period.

(3) The purpose of this section is to provide leave time to employees for adoption, pregnancy, childbirth and nursing the infant, where applicable; therefore, if an employer finds that the employee has utilized the period of leave to actively pursue other employment opportunities or if the employer finds that the employee has worked part time or full time for another employer during the period of leave, then the employer shall not be liable under this section for failure to reinstate the employee at the end of such leave.

(4) Whenever the employer shall determine that the employee will not be reinstated at the end of such leave because the employee's position cannot be filled temporarily or

because the employee has used such leave to pursue employment opportunities or to work for another employer, the employer shall so notify the employee.

(d) Nothing contained within the provisions of this section shall be construed to:

(1) Affect any bargaining agreement or company policy which provides for greater or additional benefits than those required under this section;

(2) Apply to any employer who employs fewer than one hundred (100) full-time employees on a permanent basis at the job site or location; or

(3) Diminish or restrict the rights of teachers to leave pursuant to title 49, chapter 5, part 7, or to return or reinstatement after leave.

(e) The provisions of this section shall be included in the next employee handbook published by the employer after May 27, 2005.

[Acts 1987, ch. 373, § 1; T.C.A., §§ 50-1-501 - 50-1-505; Acts 1988, ch. 607, §§ 1-3; 1991, ch. 430, § 1; 2005, ch. 224, §1.]

## **Part 5**

### **DISCRIMINATION IN PUBLIC ACCOMMODATIONS**

#### **4-21-501. Discrimination prohibited. –**

Except as otherwise provided in this chapter, it is a discriminatory practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of a place of public accommodation, resort or amusement, as defined in this chapter, on the grounds of race, creed, color, religion, sex, age or national origin.

[Acts 1978, ch. 748, § 13; T.C.A., § 4-2111; Acts 1980, ch. 732, § 9; T.C.A., § 4-21-111.]

#### **4-21-502. Advertisement indicating discriminatory policy. –**

It is a discriminatory practice for a person, directly or indirectly, to publish, circulate, issue, display or mail or cause to be published, circulated, issued, displayed or mailed a written, printed, oral or visual communication, notice or advertisement which indicates that the goods, services, facilities, privileges, advantages and accommodations of a place of public accommodation, resort or amusement will be refused, withheld from or denied an individual on account of the individual's race, creed, color, religion, sex or national origin; or that the patronage of, or presence at, a place of public accommodation, resort or amusement, of an individual on account of the individual's race, creed, color, religion, sex, age or national origin is objectionable, unwelcome, unacceptable or undesirable.

[Acts 1978, ch. 748, §14; T.C.A., § 4-2112; Acts 1980, ch. 732, § 9; T.C.A., § 4-21-112.]

#### **4-21-503. Segregation on Basis of Sex. –**

Nothing in this part shall prohibit segregation on the basis of sex of bathrooms, health clubs, rooms for sleeping or changing clothes, or other places of public accommodation the commission specifically exempts on the basis of bona fide considerations of public policy.

[Acts 1978, ch. 748, § 15; T.C.A., §§ 4-2113, 4-21-113.]

**Part 6**  
**DISCRIMINATION IN HOUSING AND FINANCING**

**4-21-601. Discriminatory housing practices generally. –**

(a) It is a discriminatory practice for any person because of race, color, creed, religion, sex, handicap, familial status or national origin, to:

(1) Refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, real property or a housing accommodation to a person;

(2) Discriminate against any person in the terms, conditions, or privileges of sale or rental of real property or a housing accommodation, or in the provision of services or facilities in connection therewith;

(3) Refuse to receive or transmit a bona fide offer to purchase, rent or lease real property or a housing accommodation from a person;

(4) Represent to a person that real property or a housing accommodation is not available for inspection, sale, rental or lease when in fact it is so available, or to refuse to permit a person to inspect real property or a housing accommodation;

(5) Make, print, publish, circulate, post or mail or cause to be made, printed, published, circulated, posted or mailed a notice, statement, advertisement or sign, or use a form of application for the purchase, rental or lease of real property or a housing accommodation, or make a record of inquiry in connection with the prospective purchase, rental or lease of real property or a housing accommodation, that indicates, directly or indirectly, a limitation, specification or discrimination as to race, color, creed, religion, sex, handicap, familial status or national origin or an intent to make such a limitation, specification or discrimination;

(6) Offer, solicit, accept, use or retain a listing of real property or a housing accommodation for sale, rental or lease with the understanding that a person may be discriminated against in the sale, rental or lease of that real property or housing accommodation or in the furnishing of facilities or services in connection therewith; or

(7) Deny any person access to, or membership or participation in, any multiple-listing services, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such access, membership or participation.

(b) (1) It is a discriminatory practice for any person to:

(A) Discriminate in the sale or rental of, or otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:

(i) The buyer or renter;

(ii) A person residing in or intending to reside in the dwelling after it is so sold, rented or made available; or

(iii) Any person associated with the buyer or renter; or

(B) Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:

(i) The person;

(ii) A person residing in or intending to reside in the dwelling after it is so sold, rented or made available; or

(iii) Any person associated with the person.

(2) For purposes of this subsection (b), "discrimination" includes:

(A) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such

modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, no modification need be permitted unless the renter first agrees to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted, unless previously negotiated with the landlord;

(B) Refusing to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(C) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, failing to design and construct those dwellings in such a manner that:

(i) The dwellings have at least one (1) building entrance on an accessible route, unless it is impractical to do so because of terrain or unusual site characteristics; or

(ii) With respect to dwellings with a building entrance on an accessible route:

(a) The public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

(b) All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(c) All premises within such dwellings contain the following features of adaptive design:

(1) An accessible route into and through the dwelling;

(2) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

(3) Reinforcements in bathroom walls to allow later installation of grab bars; and

(4) Usable kitchens and bathrooms, such that an individual in a wheelchair can maneuver about the space.

(3) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of subdivision (b)(2)(C)(ii).

(4) As used in this subsection, "covered multifamily dwellings" means:

(A) Buildings consisting of four (4) or more units if such buildings have one (1) or more elevators; and

(B) Ground floor units in other buildings consisting of four (4) or more units.

(5) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(c) It is a discriminatory practice for a person in the business of insuring against hazards to refuse to enter into, or discriminate in the terms, conditions, or privileges of, a contract of insurance against hazards to a housing accommodation or real property because of the race, color, creed, religion, sex or national origin of the person owning, or residing in or near the housing accommodations or real property.

(d) It is a discriminatory practice for a person to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of such person's having exercised or enjoyed, or on account of such person's having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the provisions of this chapter.

(e) This section may also be enforced by appropriate civil action.

[Acts 1984, ch. 1007, § 4; T.C.A., § 4-21-127; Acts 1990, ch. 937, §§ 2, 3; 1992, ch. 1027, §§ 10, 11.]

**4-21-602. Exemption from housing provisions. –**

(a) Nothing in § 4-21-601 shall apply to:

(1) The rental of housing accommodations in a building which contains housing accommodations for not more than two (2) families living independently of each other, if the owner or a member of the owner's family resides in one (1) of the housing accommodations;

(2) The rental of one (1) room or one (1) rooming unit in a housing accommodation by an individual if such individual or a member of such individual's family resides therein, or, as regards to sex, rooms or rental units where the tenants would be required to share a common bath;

(3) A religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, which limits the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or which gives preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin; or

(4) As regards to sex, the rental of housing accommodations of single-sex dormitory rental properties, including, but not limited to, those dormitories operated by higher educational institutions.

(b) Nothing in this chapter shall require a real estate operator to negotiate with any individual who has not shown evidence of financial ability to consummate the purchase or rental of a housing accommodation.

(c) Nothing in subsection (a) shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title.

(d) (1) Nothing in this part limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this part regarding familial status apply with respect to dwellings provided under any state or federal program specifically designed and operated to assist elderly persons, as defined in the state or federal program, or to housing for older persons.

(2) As used in this subsection, "housing for older persons" means housing communities consisting of dwellings:

(A) (i) Intended for, and at least ninety percent (90%) occupied by, at least one (1) person fifty-five (55) years of age or older per unit;

(ii) Providing significant facilities and services specifically designed to meet the physical or social needs of such persons; and

(iii) Publishing and adhering to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older;

(B) Intended for and occupied solely by persons sixty-two (62) years of age or older.

(3) Nothing in this part prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in § 102 of the Controlled Substances Act (21 U.S.C. § 802), or as defined in the Tennessee Drug Control Act, compiled in title 39, chapter 17, part 4.

[Acts 1984, ch. 1007, § 5; T.C.A., § 4-21-128; Acts 1990, ch. 937, § 4; 1992, ch. 1027, §§ 12-15.]

#### **4-21-603. Blockbusting. –**

It is a discriminatory practice for a real estate operator, a real estate broker, a real estate salesperson, a financial institution, an employee of any of these, or any other person, for the purpose of inducing a real estate transaction from which such person may benefit financially to:

(1) Represent that a change has occurred or will or may occur in the composition with respect to race, color, creed, religion, sex, handicap, familial status or national origin of the owners or occupants in the block, neighborhood or area in which the real property is located; or

(2) Represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood or area in which the real property is located.

[Acts 1984, ch. 1007, § 6; T.C.A., § 4-21-129; Acts 1992, ch. 1027, § 16.]

#### **4-21-604. Restrictive covenants and conditions. –**

(a) Every provision in an oral agreement or a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy or lease thereof to individuals of a specified race, color, creed, religion, sex or national origin is void.

(b) Every condition, restriction or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of race, color, creed, religion, sex or national origin is void, except a limitation of use on the basis of religion of real property held by a religious institution or organization or by a religious or charitable organization operated, supervised, or controlled by a religious institution or organization, and used for religious or charitable purposes.

(c) It is a discriminatory practice to insert in a written instrument relating to real property a provision that is void under this section or to honor or attempt to honor such a provision in the chain of title.

[Acts 1984, ch. 1007, § 7; T.C.A., § 4-21-130.]

#### **4-21-605. Agency no defense in proceeding against realtor. –**

It shall be no defense to a violation of this chapter by a real estate operator, real estate broker, real estate salesperson, financial institution, or other person subject to the provisions of this chapter that the violation was requested, sought or otherwise procured by a person not subject to the provisions of this chapter.

[Acts 1984, ch. 1007, § 8; T.C.A., § 4-21-131.]

#### **4-21-606. Residential real estate-related transactions. –**

(a) It is an unlawful practice for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such transaction, or in the terms and conditions of such transaction, because of race, color, creed, religion, sex, handicap, familial status or national origin.

(b) As used in this section, "residential real estate-related transaction" means:

(1) The making or purchasing of loans or providing financial assistance:

(A) For purchasing, constructing, improving, repairing, or maintaining a dwelling;

(B) Where the security is residential real estate; or

(2) The selling, brokering, or appraising of residential real estate.

[Acts 1984, ch. 1007, § 9; T.C.A., § 4-21-132; Acts 1992, ch. 1027, § 17.]

**4-21-607. violations by realtors – notice to real estate commission. –**

Where a real estate broker or a real estate salesperson has failed to comply with any order issued by the commission or has been found to have committed a discriminatory housing practice in violation of § 4-21-601 or § 4-21-603, the commission shall notify in writing the real estate commission of the failure to comply or the violation.

[Acts 1984, ch. 1007, § 10; T.C.A., § 4-21-133.]

**PART 7– MALICIOUS HARASSMENT**

**4-21-701. Creation of civil action – Damages. –**

(a) There is hereby created a civil cause of action for malicious harassment.

(b) A person may be liable to the victim of malicious harassment for both special and general damages, including, but not limited to, damages for emotional distress, reasonable attorney's fees and costs, and punitive damages.

[Acts 1990, ch. 908, § 1; 1996, ch. 675, § 8.]

**4-21-702. Alternative remedies preserved. –**

The remedy for malicious harassment provided in this part shall be in addition to, and shall not preclude victims from seeking, other remedies, criminal or civil, otherwise available under the law.

[Acts 1990, ch. 908, § 1.]

**PART 8– CIVIL RIGHTS ACT OF 1990  
RESTRICTIVE CLUBS**

**4-21-801. Short title. –**

This part shall be known and may be cited as the "Civil Rights Act of 1990." [Acts 1990, ch. 1053, § 1.]

**4-21-802. State activities and expenditures prohibited. –**

(a) No state official, employee or agency shall sponsor or organize a meeting or other activity, the purpose of which is related to state business, including any athletic competition, in an establishment or facility that does not afford full membership rights and privileges to a person because of sex, race, creed, color, religion, ancestry, national origin or disability.

(b) No state funds shall be expended in connection with a meeting or other activity held at an establishment or facility that does not afford full membership rights and privileges to a person because of sex, race, creed, color, religion, ancestry, national origin or disability.

(c) No state official, employee or agent shall be reimbursed for dues or other expenses incurred at an establishment or facility that does not afford full membership rights and privileges to a person because of sex, race, creed, color, religion, ancestry, national origin or disability.

(d) This section shall not apply to state officials, employees or agents acting in the course of on-going law enforcement, code enforcement or other required investigations and inspections.

(e) For the purposes of this section, a "public official" is a person who holds an elected or appointed position in state government.

[Acts 1990, ch. 1053, § 2.]

**4-21-803. Commercial agreements with the state - Prohibition - Required statement. –**

(a) No state official, employee or agent shall enter into a commercial agreement on behalf of the state with a club that denies to a person entry, use of facilities or membership, or unreasonably prevents the full enjoyment of such club on the basis of sex, race, creed, color, religion, ancestry, national origin or disability.

(b) Prior to entering into a commercial agreement with the state, a club must file a statement, verified by the president or chief executive officer of the club, that it does not deny a person entry, use of facilities or membership or unreasonably prevent the full enjoyment of such club on the basis of sex, race, creed, color, religion, ancestry, national origin or disability.

[Acts 1990, ch. 1053, § 3.]

**4-21-804. Higher education adjunct organizations- Provision of discriminatory club membership prohibited. –**

No adjunct organization, including, but not limited to, booster groups, of a state university, community college or institution of higher learning shall enter into a contract on behalf of, or purchase membership for, an employee of such university, college or institution of higher learning to a club that denies to a person entry, use of facilities or membership, or unreasonably prevents the full enjoyment of such club on the basis of sex, race, creed, color, religion, ancestry, national origin or disability.

[Acts 1990, ch. 1053, § 4.]

**4-21-805. Enforcement. –**

(a)(1) The state of Tennessee or a person who is discriminated against in violation of this part may enforce the provisions of this part by means of a civil action.

(2) A person found to violate any of the provisions of this part is liable for the actual damages caused by such violation and such other amount as may be determined by a jury or a court sitting without a jury, but in no case less than two hundred fifty dollars (\$250), plus, in addition thereto, reasonable attorney's fees and court costs as may be determined by the court.

(b) (1) A person who commits an act or engages in any pattern and practice of discrimination in violation of this part may be enjoined therefrom by a court of competent jurisdiction.

(2) An action for injunction under this subsection (b) may be brought by a person who is discriminated against in violation of this part by the state, or by a person or entity that will fairly and adequately represent the interests of the protected class.

(c) Nothing in this part shall preclude any person from seeking any other remedies, penalties or procedures provided by law. No criminal penalties shall attach for a violation of the provisions of this part.

[Acts 1990, ch. 1053, § 5.]

**4-21-806. Exemption- Religious organizations. –**

(a) Nothing in this part shall be construed to prohibit a religious organization or any organization operating solely for religious, charitable, educational or social welfare purposes from restricting membership or facilities to persons of the same religious faith, where necessary to promote the religious principles under which it was established and is currently maintained.

(b) This exemption applies only to organizations whose primary purpose is to serve members of a particular religion.



## **PART 9— TITLE VI IMPLEMENTATION PLANS**

### **4-21-901. Development of plan- Annual reports. –**

Each state governmental entity subject to the requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., and regulations promulgated pursuant thereto, shall develop a Title VI implementation plan with participation by protected beneficiaries as may be required by such law or regulations. To the extent applicable, such plan shall include Title VI implementation plans of any subrecipients of federal funds through the state entity. Each such state governmental entity shall submit annual Title VI compliance reports and implementation plan updates to the department of audit by June 30, 1994, and each June 30 thereafter. At least once each year, the department shall publish a cumulative report of its findings and recommendations concerning compliance with the requirements of this section. The cumulative annual report shall be distributed to the governor, to each member of the general assembly, and to each library designated as a depository of state reports and documents.

[Acts 1993, ch. 502, § 1.]

### **4-21-902. Federal funding. –**

It is the legislative intent that any increased costs incurred by state entities as a result of the provisions of this section shall, to the extent legally available, be paid from federal funds available therefor.

[Acts 1993, ch. 502, § 1.]

### **4-21-903.[Obsolete]**

### **4-21-904. Discrimination by funded programs prohibited. –**

It is a discriminatory practice for any state agency receiving federal funds making it subject to Title VI of the Civil Rights Act of 1964, or for any person receiving such federal funds from a state agency, to exclude a person from participation in, deny benefits to a person, or to subject a person to discrimination under any program or activity receiving such funds, on the basis of race, color, or national origin.

[Acts 1995, ch. 381, § 1.]

### **4-21-905. Filing a complaint. –**

(a) Any person claiming to be aggrieved by a discriminatory practice under this part may file a complaint with the state department, agency or entity receiving the funds within one hundred eighty (180) days of the occurrence of the alleged discriminatory act. Any such complaint filed with a state department, agency or entity is subject to review by the Title VI compliance commission for applicability under Title VI of the Civil Rights Act of 1964, as amended.

(b) Any person claiming to be aggrieved by a discriminatory practice under this part may also file a complaint with the Title VI compliance commission, in the same manner established in § 4-21-302, for other discriminatory practices. If such a complaint is filed with the Title VI compliance commission pursuant to this section, then the commission shall exercise the same powers and shall observe the same procedures as are set forth in part 3 of this chapter for the human rights commission when complaints of other discriminatory practices are filed with the commission pursuant to § 4-21-302.

[Acts 1995, ch. 381, § 1; 2003, ch. 218, § 1.]

**PART 10— TENNESSEE ANTI-SLAPP ACT OF 1997**  
**STRATEGIC LAWSUITS AGAINST POLITICAL PARTICIPATION**

**4-21-1001. Short title. —**

This part shall be known and may be cited as the "Tennessee Anti-Slapp Act of 1997."  
[Acts 1997, ch. 403, § 1.].

**4-21-1002. Legislative intent and findings. —**

(a) It is the intent of the general assembly to provide protection for individuals who make good faith reports of wrongdoing to appropriate governmental bodies. Information provided by citizens concerning potential misdeeds is vital to effective law enforcement and the efficient operation of government.

(b) The general assembly finds that the threat of a civil action for damages in the form of a "strategic lawsuit against political participation" (SLAPP), and the possibility of considerable legal costs, can act as a deterrent to citizens who wish to report information to federal, state, or local agencies. SLAPP suits can effectively punish concerned citizens for exercising the constitutional right to speak and petition the government for redress of grievances.

[Acts 1997, ch. 403, § 2.]

**4-21-1003. Immunity from SLAPP suits- Exceptions - Costs. —**

(a) Any person who in furtherance of such person's right of free speech or petition under the Tennessee or United States Constitution in connection with a public or governmental issue communicates information regarding another person or entity to any agency of the federal, state or local government regarding a matter of concern to that agency shall be immune from civil liability on claims based upon the communication to the agency.

(b) The immunity conferred by this section shall not attach if the person communicating such information:

- (1) Knew the information to be false;
- (2) Communicated information in reckless disregard of its falsity; or
- (3) Acted negligently in failing to ascertain the falsity of the information if such information pertains to a person or entity other than a public figure.

(c) A person prevailing upon the defense of immunity provided for in this section shall be entitled to recover costs and reasonable attorneys' fees incurred in establishing the defense.

[Acts 1997, ch. 403, § 3.]

**4-21-1004. Intervention by agency or attorney general and reporter. —**

(a) In order to protect the free flow of information from citizens to their government, an agency receiving a complaint or information under the provisions of §4-21-1003 may intervene and defend against any suit precipitated by the communication to the agency. In the event that a local government agency does not intervene in and defend against a suit arising from any communication protected under this part, the office of the attorney general and reporter may intervene in and defend against the suit.

(b) An agency prevailing upon the defense of immunity provided for in §4- 21-1003 shall be entitled to recover costs and reasonable attorneys' fees incurred in establishing the defense. If the agency fails to establish such defense, the party bringing such action shall be entitled to recover from the agency costs and reasonable attorneys' fees incurred in proving the defense inapplicable or invalid. [Acts 1997, ch. 403, § 4.]

# **TITLE 8 PUBLIC OFFICERS AND EMPLOYEES**

## **CHAPTER 50 MISCELLANEOUS PROVISIONS**

### **PART 1— GENERAL PROVISIONS**

#### **8-50-103. Employment of the handicapped - Discrimination prohibited - Penalty - Complaint. —**

(a) There shall be no discrimination in the hiring, firing and other terms and conditions of employment of the state of Tennessee or any department, agency, institution or political subdivision of the state, or of any private employer, against any applicant for employment based solely upon any physical, mental or visual handicap of the applicant, unless such handicap to some degree prevents the applicant from performing the duties required by the employment sought or impairs the performance of the work involved. Furthermore, no blind person shall be discriminated against in any such employment practices because such person uses a guide dog. A violation of this subsection (a) is a Class C misdemeanor.

(b) (1) Any person claiming to be aggrieved by a discriminatory practice prohibited by this section may file with the Tennessee human rights commission a written sworn complaint stating that a discriminatory practice has been committed, setting forth the facts sufficient to enable the commission to identify the persons charged.

(2) Upon receipt of such complaint, the commission shall follow the procedure and exercise the powers and duties provided in §§4-21-302 - 4-21-311, and the person shall have all rights provided therein.

[Acts 1976, ch. 457, § 1; 1979, ch. 104, § 1; 1979, ch. 222, § 1; T.C.A., § 8-4131; Acts 1986, ch. 692, § 1; 1986, ch. 869, § 16; 1987, ch. 15, §§ 1, 2; 1989, ch. 591, § 113; 1990, ch. 773, § 1.]